
IN THE UNITED STATES DISTRICT COURT, DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	Civil No. 2:08 CV 21 BSJ
Petitioner,	:	REPORT & RECOMMENDATION
vs.	:	
HEATHER HAMILTON,	:	Honorable Bruce S. Jenkins
Owner/President, First Choice	:	Magistrate Judge Paul M. Warner
Strategies Inc.	:	
Respondent.	:	

The United States of America filed a petition to enforce its April 17, 2007 IRS Summons (the "Summons") against Heather Hamilton ("Respondent") pursuant to 26 U.S.C. §§ 7402(b) and 7604(a). On January 10, 2008, Judge Bruce S. Jenkins issued an Order to Show Cause (the "OTSC"), which referred this matter to Magistrate Judge Paul M. Warner for a hearing scheduled for March 5, 2008.

The OTSC directed Respondent to file a written response supported by sworn affidavits to the United States' Petition to Enforce the Summons (the "Petition") within ten days of the OTSC being served upon him. The OTSC also directed this court to convene a hearing on March 5, 2008, at 10:00 a.m. to determine whether Respondent has shown cause for her failure to comply with the Summons.

Based on the signatures of the parties' respective counsel, shown below, the parties have stipulated to the following:

1. The United States has carried its burden of proof to enforce the Summons. Through the Summons and the declaration of the revenue officer that were attached to the Petition, the United States established that: (1) it sought the summoned information for a legitimate purpose, (2) the summoned information is relevant to the legitimate purpose, (3) the summoned information was not already in the possession of the United States; and (4) that the United States followed proper administrative procedures.

2. Once the United States has established its initial burden of proof, the burden shifts to Respondent to show why he should not be compelled to comply with the Summons. Based on the signed stipulation below, Respondent does not contest the enforcement of the Summons.

3. Given that Respondent does not contest enforcement of the Summons, the March 5, 2008 hearing is **VACATED**.

Consequently, **IT IS HEREBY RECOMMENDED THAT:**

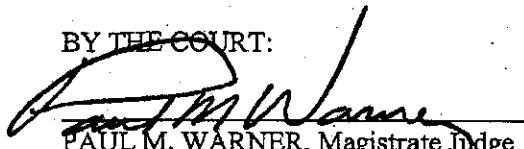
1. The district court find that Respondent has failed to show cause why she should not be compelled to comply with the Summons; and

2. The district court order Respondent to provide the information required by the Summons to the IRS no later than 30 days after the district court adopts this report and recommendation. The IRS offices are located at 50 South 200 East, Salt Lake City, Utah 84111.

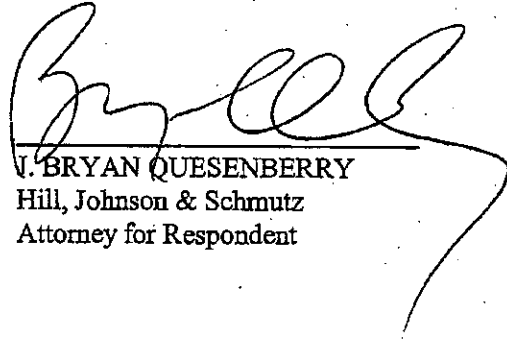
Copies of the foregoing report and recommendation are being sent to the parties, who are hereby notified of their right to object. The parties are further notified that they must file any objections to the report and recommendation with the clerk of the district court within ten (10) days after receiving it. *See* 28 U.S.C. § 636(b)(1)(C). Failure to file objections may constitute a waiver of those objections on subsequent appellate review.

DATED this 4th day of March 2008.

BY THE COURT:


PAUL M. WARNER, Magistrate Judge
United States District Court

The United States, through the undersigned Assistant United States Attorney, and Respondent, through the undersigned counsel, hereby stipulate and agree to the entry of the foregoing REPORT AND RECOMMENDATION.


J. BRYAN QUESENBERY
Hill, Johnson & Schmutz
Attorney for Respondent

BRETT L. TOLMAN
United States Attorney


JARED C. BENNETT
Assistant United States Attorney